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ADMITTED IN N.Y. AND N.J.

April 21, 2017

VIA ECF

Honorable Kiyo A. Matsumoto
United States District Judge
Eastern District of New York
225 Cadman Plaza East
Brooklyn, NY 11201

RE: **United States v. Martin Shkreli**
15 CR 637 (KAM)

Dear Judge Matsumoto:

This letter and its attachments are submitted on behalf of Defendant Martin Shkreli pursuant to paragraph 3 of this Court's Amended Scheduling Order (Dkt. No. 147). We are submitting a preliminary Exhibit List, a Preliminary List of Trial Witnesses, a List of Persons and Businesses that may be referred to during the trial, a Preliminary Request to Charge and a Proposed Juror Questionnaire. (A Juror Questionnaire will avoid the potential for prejudice to an entire panel if jurors were asked to respond verbally to "what they may have read or heard about Mr Shkreli"). At this time, we do not anticipate that this trial will require a special verdict form or special interrogatories, and accordingly, we are not submitting a proposed verdict form.

We have conferred with the Government regarding stipulations and are in agreement regarding proposed stipulations as to authentication of certain business records that the parties may seek to admit as exhibits during trial. It is our understanding that the Government will be submitting those joint proposed stipulations today with its other trial submissions.

We also coordinated with Government to prepare the Lists of Persons and Businesses that may be referred to during the trial. Although we are submitting separate lists, the lists are not duplicative of one another. The Government generated initial lists and we supplemented the Government's lists with additional Persons and Businesses.

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Our efforts to disclose Exhibit Lists were hampered somewhat by the continued litigation with Retrophin regarding its privilege over certain documents produced by Katten Muchin Rosenman LLP (“Katten”). We include with our Exhibit Lists documents over which Retrophin continues to assert privilege, but in including those documents in our lists, we provide only Bates numbers and then we place the document in a category. No privileged information is disclosed.

We are unable to predict how the trial will unfold or precisely how the Government will seek to prove its allegations against Mr. Shkreli. Accordingly, Mr. Shkreli respectfully reserves his right to modify the preliminary disclosures made today in the Exhibit List, the Witness List, and the Preliminary Request to Charge as well as the right to request a special verdict form should such a form become appropriate.

We thank the Court for its courtesy and consideration throughout these proceedings.

Respectfully,

A handwritten signature in black ink, appearing to read 'Ben Brafman', with a long horizontal flourish extending to the right.

Benjamin Brafman

Andrea Zellan

Marc Agnifilo

Jacob Kaplan

cc: AUSA Alixandra Smith (via hand delivery)